

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	Docket No. MB 18-184
Amendment of Section 73.207,)	FCC 18-69
73.211, 73.215, and 73.3573 of the)	RM-11727
Commission's Rules related to)	
Minimum Distance Separation)	
Between Stations, Station Classes)	
Power and Antenna Height)	
Requirements, Contour Protection)	
for Short Space FM Assignments,)	
and Processing FM Broadcast)	
Station Applications)	

To: Marlene Dortch, Secretary
Federal Communications Commission
Attention: Media Bureau

REPLY COMMENTS OF PETITIONER

SSR Communications, Inc. ("Petitioner") hereby submits its Reply Comments in full support of the above-captioned Notice of Inquiry proceeding (MB 18-184, FCC 18-69, RM-11727). In its initial Petition for Rulemaking ("Petition,") and subsequently-filed comments, Petitioner has asked the Commission to consider two separate proposals. As stated previously in the record, Petitioner requests that the Commission: (1) create a new FM "C4" power class that would permit eligible Zone II FM licensees to specify broadcast facilities of up to 12,000 Watts of effective radiated power from a reference antenna height above average terrain of 100 meters, and (2) create a "Show Cause Order" procedure that would allow sub-maximum class FM facilities not currently authorized under Section 73.215 of the Commission's Rules to be reclassified as 73.215 facilities under specific circumstances involving a competing demand for radio spectrum.

Petitioner continues to respectfully assert that both proposals are in the public interest and represent a fair and efficient use of broadcast spectrum, which if implemented in full, would allow over seven hundred FM Class A stations the opportunity to upgrade to the new FM Class C4 license type from their current tower locations, resulting in potential collective net new service to 17,736,430 persons. Clearly, the complete adoption of the MB 18-184 proceeding is in the public interest.

REACTION TO PRESENT MB 18-184 RECORD

Petitioner notes that *over one hundred broadcasters*, mainly independent and small station operators, have responded favorably to the two proposals contained within the MB 18-184 proceeding. Additionally, the nation's two largest Commission license-holders by volume of authorizations, iHeart Media and Educational Media Foundation, do not oppose the creation of a Zone II “FM Class C4” allocation, and in fact, Educational Media Foundation has come out in “cautious support” of the proposal. Similarly, leading Low Power FM advocacy group REC Networks does not outright oppose the creation of a FM Class C4 allotment type, and suggests that a waiver-based Section 73.215 conference procedure be created for underbuilt stations licensed under Section 73.207. Apart from two inexplicably-filed documents from separate and unrelated proceedings from Beasley Media, Cox Communications, et alia that were likely mistakenly submitted, and an overall objection from the National Association of Broadcasters, submitted without a vote of consent from the members of the Radio Board of Directors, virtually all other comments are overwhelmingly positive.

NOTICE OF INQUIRY CONSIDERATIONS

Petitioner respectfully asserts that its comments alone seek to answer each of the fifty-four separate questions raised in the Commission's Notice of Inquiry related to this proceeding. Of the handful of opposing parties in the MB 18-184 record, not one has taken the trouble to address all of the Commission's important considerations within the context of the proposed FM Class C4 and Section 73.215 changes. In addition, Petitioner points out that its comments in favor are properly bolstered by actual studies and hard data, as opposed to the mere conjecture produced by the handful of filers in opposition.

In its filing, for example, the National Association of Broadcasters alleges that full implementation of the MB 18-184 proceeding will “escalate the risk of interference [to] FM translators,” and could “knock [a] translator off in the process.” though it does not support such conjecture with any evidence. Indeed, the only actual factually-based studies tendered within the MB 18-184 record come to the opposite conclusion. Unsupported claims of devastating consequences to broadcasters may make for good headlines in trade publications and likely help fundraising efforts for those groups authoring such, but in the real world, the documented benefits of the MB 18-184 proposals to small broadcasters *far outweigh* the minuscule possibility of negative effects.

IMMEDIATE WAIVER-BASED IMPLEMENTATION OF 73.215 PROPOSAL

Although Petitioner has provided ample data to demonstrate of the benefits of full implementation of the MB 18-184 proceeding, as the Commission is evaluating the proposals, Petitioner suggests that a waiver-based Section 73.215 conference procedure for underbuilt Zone II Section 73.207 stations be permitted in order to provide instant

relief to stations with competing expressions of interest in unused spectrum. Petitioner believes that, as referenced in its comments, the method proposed by WRTM 100.5 FM in its pending application, BPH-20180716AAC (Exhibit 34) be used a model for how to process Section 73.215 conference requests immediately, without impact to secondary services.

In its related application filing, WRTM-FM licensee Commander Communications has asked the Commission to be able to treat long-underbuilt (for thirty years or more) Section 73.207 stations as if they are licensed under Section 73.215, provided that the waiver-seeking applicant is a Zone II FM Class A licensee, requests no community of license change, and demonstrates no predicted interference to secondary services. In its comments, REC Networks also advocates a similar, but more restrictive waiver-based 73.215 conference procedure. Petitioner respectfully asserts that a waiver-based system formed from the WRTM-FM example will allow for prompt and critical relief for small broadcasters seeking such, while at the same time, provide a well-defined “proof of concept” that guarantees elimination of all possible negative engineering consequences as the Commission examines this issue.

As noted correctly by Commander Communications within its waiver request filing, “no zoning problem, FAA issue, or cost consideration could not be resolved within 30 years if the desire is truly there to build out fully.” While the National Association of Broadcasters comments attempt to undermine the 73.215 conference procedure proposal by stating that, “it is common for broadcasters to take measured steps toward station improvements while it builds a following,” at no point in their filing do they address why an affected underbuilt licensee could not have taken the *last step* of achieving a full

facility when given *ten years* to do so. The Commander Communications waiver-based request *triples* the time window in which an underbuilt 73.207 station could construct full facilities before facing 73.215 reclassification. The WRTM-FM waiver approach serves as a cautious and conservative model for which the Commission should adopt a “use it or lose it” attitude with respect to the issue of underbuilt stations warehousing spectrum for decades.

COMPOSITION OF COMMENTERS

Petitioner observes that, on the whole, the supporters of the MB 18-184 proposals are small broadcasters, many of whom are single-station operators, whereas the few commenters to dissent are either large corporations with little to gain from the full implementation of this proceeding, or their national advocacy arm. Those licensees who already control the largest signals in prime markets have no clear reason to invite the inevitable additional competition that would emerge if the Commission were to adopt the MB 18-184 changes. Supporters, on the other hand, are generally those small operators who are in most desperate need of the lift that the FM Class C4 and Section 73.215 changes would represent. The remarkable diversity of those in favor includes more than a dozen minority-owned licensees, LPFM stations, AM license-holders with cross-service FM translators, and even a television operator who has simply filed as a show of solidarity for small broadcasters.

The Commission can provide meaningful assistance to these broadcasters with a few simple rule changes. As there are no engineering challenges related to full approval of the MB 18-184 proposals, the Commission will have the policy choice of either

granting substantial relief to hundreds of small-station licensees who need it the most, or maintaining the status quo, driving many of those same broadcasters to a ruinous fate.

COMPARISON TO FM CLASS C0 IMPLEMENTATION

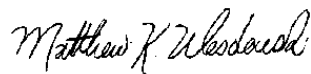
In its 1998 Biennial Regulatory Review, MM Docket Number 98-93, the Commission faced a similar dilemma with respect to allocation of previously unused bandwidth and how to best free up warehoused spectrum. The solution was the formation of a procedure to allow small station licensees to induce, or “trigger,” large broadcasters who had not built out their stations fully to reclassify those facilities to a then-new, more appropriate “FM Class C0” allotment type. Indeed, the FM Class C0 rules are the exact blueprint of the proposals found within the MB 18-184 proceeding, some two decades later.

What's old is truly new again. Small broadcasters generally supported the FM Class C0 proceeding twenty years ago, and the National Association of Broadcasters came out in fierce opposition then. Similarly, without the NAB's blessing in 2018, creation of the FM Class C4 allotment type has received overwhelming and near-universal support, with *far more positive comments filed* in this window than during the 1998 FM Class C0 proceeding. Petitioner hopes that history will repeat itself once again and that the Commission will do the right thing to help small and independent broadcasters everywhere.

CONCLUSION

Petitioner respectfully requests that the Commission fully consider its proposal, as it will enable many FM broadcast facilities to significantly improve their service areas *without impacting the actual service areas of other stations*. Petitioner's proposal will promote fair and efficient use of the FM broadcast spectrum, and millions of listeners will receive improved FM service. Additionally, the average eligible FM Class A station able to upgrade to FM Class C4, with the Section 73.215 conference procedure included, could add 25,338 potential listeners, consuming only previously-unused spectrum, clearly in the public interest. Petitioner respectfully asks that a Notice of Proposed Rulemaking, possibly as part of a broader technical streamlining proposal taking in LPFM expansion and translator considerations, be issued in this proceeding without delay.

Respectfully submitted,



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